IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2621 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHARAMDAS BALCHAND JAYSINGANI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 2621 of 1996

MR RAMNANDAN SINGH for Petitioners

Mr.Pancholi, Addl.PP for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 29/11/2001

ORAL JUDGEMENT

The petitioners have approached this court by way of this petition under section 482 of Cr.P.C. seeking

quashing of complaint preferred by the present respondent No.2 before the Ld.JMFC, Baroda for offences punishable under sections 465, 467, 468, 471 and 114 of IPC being Inquiry Case No.0/34/96 (Annexure "A"). According to the complainant, the present petitioners have forged the documents, namely, books of accounts which are written in Gujarati produced and relied in Civil Suit No.216/96 in the Civil Court, Baroda, and therefore, they have committed this forgery. According to the complainant, the books of accounts were maintained in Hindi. Hence, books of accounts produced in the said suit are in Gujarati and therefore it is a clear case of forgery. In that complaint directing the investigation under section 156(3) of Cr.P.C. passed by the Ld.JMFC,Baroda.

2. The petitioners being aggrieved by the order passed by the Ld.JMFC, Baroda have approached this court. The case of the petitioners is that the complaint is false and is preferred only by way of counterblast to the complaint and the Civil Suit preferred by the petitioner No.1 earlier in point of time. The complaint is preferred only with a view to create a defence in the Civil Suit. The complaint is therefore gross misuse of process of law and may be quashed.

3. The matter was admitted and notice of rule was issued. It has been served duly to the respondent No.2, but he has chosen not to contest this petition, and has not appeared before this court. This matter has been listed for 62nd time today. The respondent No.1-State is represented by Ld.APP-Mr.Pancholi.

4. Mr.Singh, Ld.advocate appearing for the petitioners has reiterated the grounds stated in the petition. He submitted that if annexures B,C and D are seen, it becomes clear that they are preferred by the present petitioner No.1 earlier in point of time against the respondent No.2 and the respondent No.2, as a counterblast, preferred this complaint. He submitted that the contention in the petition that the books of accounts were maintained in Hindi is not correct. He has relied on annexure "E" which is an application for registration under Gujarat Sales Tax Act. In that application, dated 29.1.1999 it has been stated that the books of accounts are maintained in Gujarati. Mr.Singh, therefore, submitted that it is clear from the document produced before public officer by the complainant himself which indicates that the books of accounts are maintained by the petitioners in Gujarati.

5. The case of the petitioners has not been controverted by the respondent No.2.

6. Considering the tenor of the complaint which implicates even female members of the family, who have nothing to do with the working of business of the petitioner No.1 nor do they seem to be partners in the business have been implicated and considering that the complaint in question is filed after lodging the complaint by the first petitioner (annexures "B" & "C") this court is inclined to accept the contention that the complaint is only by way of counterblast against the action taken by the petitioner No.1 in misuse of process of law.

7. For the aforesaid reasons this court is inclined to exercise powers under section 482 of Cr.P.C. and quash the complaint. This petition is allowed. The complaint being Inquiry Case No.0/34/96 before the JMFC, Baroda stands quashed and the subsequent action following the order of the JMFC, Baroda also stands quashed. Rule is made absolute accordingly.

29.11.2001 (A.L.Dave,J)